

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:09cv268

JAMES F. DORMAN,)
)
Plaintiff,)
)
vs.) O R D E R
)
GRAIN DEALERS MUTUAL)
INSURANCE COMPANY,)
)
Defendant.)
-----)

THIS MATTER is before the Court on the Defendant's Motion to Dismiss and Motion for Judgment on the Pleadings [Doc. 2] and the Plaintiff's Motion for Leave to Amend the Complaint [Doc. 16].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the Defendant's Motion to Dismiss and Motion for Judgment on the Pleadings [Doc. 2] and the Plaintiff's Motion for Leave to Amend the Complaint [Doc. 16].

On March 18, 2010, the Magistrate Judge entered a Memorandum and Recommendation [Doc. 22], recommending that the Defendant's Motion to Dismiss and Motion for Judgment on the Pleadings [Doc. 2] be

granted, that the Plaintiff's Motion for Leave to Amend the Complaint [Doc. 16] be denied as futile, and that this action be dismissed with prejudice in its entirety as time barred. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service of the same. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation [Doc. 22] that the Defendant's Motion to Dismiss and Motion for Judgment on the Pleadings [Doc. 2] be granted, that the Plaintiff's Motion for Leave to Amend the Complaint [Doc. 16] be denied as futile, and that this action be dismissed with prejudice in its entirety as time barred.

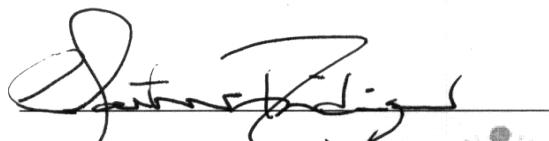
IT IS, THEREFORE, ORDERED that the Defendant's Motion to Dismiss and Motion for Judgment on the Pleadings [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the Plaintiff's Motion for Leave to Amend the Complaint [Doc. 16] is **DENIED** as futile.

IT IS FURTHER ORDERED that this action is **DISMISSED WITH PREJUDICE** in its entirety as time barred.

IT IS SO ORDERED.

Signed: April 13, 2010



Martin Reidinger
United States District Judge

